



October 18, 1982

NUMBER 5210.50

USD(P)

Department of Defense Directive

SUBJECT: Unauthorized Disclosure of Classified Information to the Public

- References:
- (a) DoD Directive 5210.50, "Investigation of and Disciplinary Action Connected with Unauthorized Disclosure of Classified Information," April 29, 1966 (hereby canceled)
 - (b) DoD Directive 5000.19, "Policies for the Management and Control of Information Requirements," March 12, 1976
 - (c) DoD 5200.1-R, "Information Security Program Regulation," August 1982, authorized by DoD Directive 5200.1, "DoD Information Security Program," June 7, 1982
 - (d) Title 10, United States Code, Chapter 47 (Uniform Code of Military Justice)

A. REISSUE AND PURPOSE

This Directive reissues reference (a), updates established policies, assigns responsibilities, and prescribes procedures for reporting and investigating unauthorized public disclosures of classified information and for reporting corrective and disciplinary action taken.

B. APPLICABILITY AND SCOPE

1. This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").

2. Its provisions also apply to DoD contractors and their employees when they are or may be involved in the unauthorized public disclosure of classified information.

C. DEFINITION

Unauthorized disclosure. Refers to disclosure to a person likely to release the classified information to the public, regardless of whether or not this person discloses the information to the public.

D. POLICY

It is the policy of the Department of Defense that all known or suspected instances of unauthorized public disclosure of classified information shall be reported promptly and shall be investigated to determine the nature and circumstances of the disclosure and the extent of damage to national security, and that appropriate disciplinary and corrective action shall be taken.

E. RESPONSIBILITIES

1. The Deputy Under Secretary of Defense for Policy (DUSDP) shall:

a. Provide policy and direction for reporting and investigating unauthorized public disclosures of classified information.

b. Request investigations of unauthorized public disclosures of classified information throughout the Department of Defense or within DoD contractor facilities on behalf of the Secretary of Defense. These investigations shall be initiated upon notice to or in coordination with the DoD Component concerned.

c. Coordinate the initiation and conduct of any investigation that involves more than one DoD Component.

d. Submit to the Secretary of Defense reports of findings resulting from investigations.

e. Serve as a point of contact on investigative matters that involve unauthorized disclosure of classified information directed to the Department of Defense by other government agencies or that may involve other government agencies.

f. Serve as the senior official for implementing this Directive within OSD.

2. Heads of DoD Components shall:

a. Identify, followup, and maintain records on any actions involving unauthorized disclosure of classified information. If no action is taken, that fact shall also be recorded.

b. Initiate inquiries promptly and conduct investigations of unauthorized public disclosures of classified information. Prepare summaries of the reports and investigations and forward them to the DUSDP, Attention: Director, Counterintelligence and Investigative Programs (CI&IP)¹.

c. Conduct an investigation of any unauthorized public disclosure of classified information if such information originated within his Component, unless a different DoD Component is more appropriately responsible. When responsibility is joint or unclear, transmit the case to the DUSDP who shall determine investigative responsibility in consultation with affected Component heads.

¹This information requirement is exempt from formal approval and licensing under subsection VII.G., enclosure 3, DoD Directive 5000.19 (reference (b)).

d. Provide assistance to the DUSDP, other DoD Components, or the Federal Bureau of Investigation to ensure that a thorough investigation is conducted when there is unauthorized public disclosure of classified information.

e. Take administrative action under DoD 5200.1-R (reference (c)) against military personnel or civilian employees who make unauthorized public disclosure of classified information. Recommend prosecution in the federal courts when considered appropriate, and forward the matter through the DUSDP to the General Counsel, Department of Defense, to determine whether referral to the Department of Justice is warranted. Take appropriate judicial action under the Uniform Code of Military Justice (reference (d)) against military personnel when warranted.

f. Designate a senior official to be responsible for carrying out the provisions of this Directive.

3. The Director, Defense Investigative Service, shall provide necessary investigative support to those DoD Components that do not have an investigative capability or when an investigation involves more than one DoD Component.

F. PROCEDURES

1. Every civilian and military member of the Department of Defense, and every DoD contractor or employee of a contractor working with classified material, has a responsibility to report promptly through appropriate channels any suspected or actual unauthorized public disclosure of classified information.

2. These reports shall be referred immediately to the senior official designated under paragraph E.2.f. who, in consultation with the Assistant Secretary of Defense (Public Affairs) and DoD officials having primary security classification jurisdiction over the information, shall determine the following:

a. Whether the information has been released officially and, if not, its current level of classification.

b. Whether investigative action within the DoD Component concerned is appropriate and, if so, how it should be conducted.

c. Whether investigative action outside the DoD Component concerned is recommended.

3. If it is determined that the disclosed information is classified at the SECRET level or higher and that investigative action should be initiated, the senior official designated under paragraph E.2.f. shall notify the DUSDP, through the Director, CI&IP, in writing that an unauthorized public disclosure has occurred and specify actions being taken or planned. Any request for investigative assistance sent to another DoD Component or to a non-DoD agency shall be coordinated with the DUSDP before being sent.

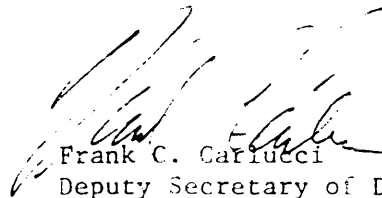
4. Decisions on whether or not to initiate investigations into the circumstances of unauthorized public disclosures should be based on the following factors:

- a. The accuracy of the information disclosed;
- b. The damage to national security caused by the public disclosure of classified information and whether there were compromises regarding sensitive aspects of current classified projects, sources, or methods;
- c. The extent to which the disclosed information was disseminated and the number of persons known to have access to it;
- d. The degree to which an investigation will increase the damage caused by the disclosure;
- e. The existence of any investigative leads;
- f. In cases of possible referral to the Department of Justice, the extent to which the classified information was disseminated outside the Department of Defense.

5. Nothing in this Directive shall interfere with or prevent any DoD Component or contractor from reporting unauthorized public disclosures as required by other applicable executive branch policies or instructions. All reports made in accordance with this Directive shall be accorded security protection appropriate to the classification of the information disclosed.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Under Secretary of Defense for Policy within 120 days.


Frank C. Carlucci
Deputy Secretary of Defense